

2006 ENVIRONMENTAL NEGOTIATIONS COMPETITION
CONFIDENTIAL INSTRUCTIONS FOR PLAINTIFFS (TRAC/COMMUNITY)
FINAL ROUND

The plaintiffs' group is in near turmoil, as its differing politics and motives have prevented the group from presenting a united front in the prior negotiations, a circumstance TPI has used to its advantage. Nonetheless, with the most recent news regarding TPI's near-disastrous financial situation, the members of the group collectively now recognize that, regardless of their personal interests, none of them will achieve anything unless they all come together one last time to try to preserve their town and their common way of life.

1. Compensation for the damage to the homes and businesses of Salmon Run. The plaintiffs continue to believe that they need \$150 million to rebuild Salmon Run and restore the surrounding area, but they know TPI is not likely to be able to pay the full cost, at least not at this time. You are aware that TPI has insurance coverage up to \$50 million. You also believe that TPI has money set aside for future capital projects, but you don't know how much, and you don't know how much of that has been committed to (or claimed by) the lenders and bondholders. At a minimum, you should demand the known insurance proceeds up front, to be used and distributed by the townspeople according to priorities to be determined later. You should also attempt to determine how much other cash may be available and try to get as much as you can for the town (without, of course, putting TPI under). You also should explore TPI's ability to pay into a fund in the future, to support ongoing rebuilding costs, as it gets its business off the ground again; however, if you agree to such payments, be wary not to accept "empty" promises of percentages of profits that may result in nothing in the end. TRAC is also wary of giving TPI added incentives for ongoing destructive timber and extractive operations, so be sure to tie any such agreement to a clear commitment by TPI to full compliance with all applicable environmental laws and regulations, as well as appropriate monitoring and oversight. Also explore getting a sizeable percentage of the proposed sales of TPI's commercial and residential properties in lieu (or in addition) to the foregoing (at least that portion, if any, not already committed to lenders).

2. Restoration of Devil's Avalanche and the Steelhead River. TRAC has recently obtained grant funds to help with the restoration of the area's natural resources, which will, at the least, contribute greatly to the short-term response costs for Devil's Avalanche and the Steelhead River. What the plaintiffs need are trained workers to assist with the restoration, and they would like TPI to pay for training and providing workers for this effort. TPI employees who are part of the plaintiffs' group, however, are leery of TPI using this need as an excuse not to retain workers, and TRAC is having difficulty interesting such workers (who have been used to high wages and good benefits) in this work, given its relatively low pay, lack of benefits and short-term prospects. Do what you can to convince TPI (in lieu of cash contribution) to give its workers incentives to help by satisfying them that they do not risk either current standards of living or future job security.

3. Continuing operation of TPI. Members of TRAC are angry at TPI's newest proposal to excavate in the Steelhead River, fearing the environmental consequences of a resource-extractive operation run by a company it has come to distrust greatly. Members of the fishing community are not so thrilled, either, concerned about such an operation's effects on tourism to the area. The TPI employees, on the other hand, are thrilled, knowing that, if they cannot return to tree-cutting, they likely will have compatible skills (and, hopefully, relative job security) with this new line of work. Your job here will be a difficult balance of ensuring sufficient environmental protections (including studies, monitoring and oversight at TPI's expense, estimated at \$500,000 for each of the timber and aggregate operations, for a total of \$1 million per year), limiting the operations to what is absolutely necessary for the company's survival (in particular, setting limits on the amount of aggregate TPI may extract and for how long), and ensuring adequate and reliable work for the TPI employees in your group. Get as much protection on all counts as you can with respect to both the timber and aggregate operations.

4. Preservation of old growth trees held by TPI. TRAC is adamant that a significant portion (if not all) of TPI's old-growth trees be set aside for preservation. Even TPI's employees realize that political winds favor at least some protection of the most revered forestlands. TRAC has identified funding in the amount of \$55 million (including matching state funds), to help pay the costs (if needed) to obtain such lands. These lands are upwards of 95,000 acres. Negotiate for as much as you can, offering the funding as necessary, but leveraging what you can as "payments in lieu" (either now or in the future, or a combination of the two) to compensate for what TPI may not be able to come up with in cash to repair and restore the community and its environs. TPI has publicly claimed the value of these lands at \$125-250 million, but you believe that range is extremely inflated based on the company's valuation of the timber as a commercial (cut) commodity. Although your economists have not been allowed access to TPI's lands to make an independent valuation, TRAC believes the actual "in place" value of the old-growth trees to be less than half that claimed by TPI and that anything in excess of an "in place" price constitutes an unacceptable windfall to TPI.

It is up to the parties how to proceed with this negotiation.